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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/591,349
Filing Date: August 31, 2006
Appellant(s): FARR ET AL.

Chris Comuntzis
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/08/2009 appealing from the Office action mailed 09/03/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have bearing on the board's decision in the pending appeal:

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

"A Reputation System for Peer-to-Peer Networks" Minaxi Gupta, Paul Judge,
Mostafa Ammar - June 2003

"A Frequent-Sharer Program for Peer-to-Peer Systems" Minaxi Gupta, Paul
Judge, Mostafa Ammar - June 2003

Daly et al. (US 5,748,896) May 5th, 1998

Nye et al. (US 2002/0156917) Oct 24th, 2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 4-16, 18, 19, and 21-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over "A Reputation System for Peer-to-Peer Networks" Minaxi

Gupta, Paul Judge, Mostafa Ammar, hereafter "Gupta A" in view of "A Frequent-Sharer Program for Peer-to-Peer Systems" Minaxi Gupta, Paul Judge, Mostafa Ammar, hereafter "Gupta B" and further in view of Daly et al. (US 5,748,896), hereafter Daly.

Additionally note that reference Gupta B is an initial draft of Gupta A and for purposes of examination will be considered the same invention.

Regarding claim 1, Gupta A discloses a content item provisioning method, comprising the steps:

storing content items for provision to users; (Pg 144, Left Column, lines 22-31 Note the server nature of the Peer 2 Peer network stores and serves content to be accessed by remote users)

maintaining, for at least one user, respective content access data usable to determine which stored content items items-may be provided to the users; (Pg 144, Right Column, lines 11-13 – Additionally in Gupta B Pg 2, Right Col, lines 39 - 49; Pg 4, Left Column, lines 1-7 Note both references determine breadth of search for the item in relation to reputation);

receiving content items from a particular user for provision to the users; (Pg 144, lines 1-3 Note content download is receipt of an item from a remote user acting as a server for the data)

changing the respective content access data for said particular user from which content are received; (Pg 144, Right Column, lines 11-13; 147, Right Column, lines 46-56; –

Additionally in Gupta B Pg 2, Right Col, lines 39 - 49; Pg 4, Left Column, lines 1-7 Note the receipt system and reputation score change accessible content as above) and the content access data comprising a content access value (As above, not the reputation is a reputation value for use by the system)

Note while Gupta A does disclose "providing a sub-set of the stored content items items-to said particular user," and implies the "members of the sub-set being determined in dependence on the respective content access data of said particular the-user," (Col 144, Right Column, lines 13-17) a specific dependence is not necessarily disclosed regarding providing the content. Gupta also only implies, but does not specifically disclose each stored content item having a property value" and "a content access value relating to the property value, wherein the sub-set of the content items is determined in dependence on the respective property values" within the above disclosed determination.

Because file access privileges are well known in the art (Demonstrated by the disclosure of Daly, Col 2, lines 10 - 19) and the disclosure of Gupta already discloses "decisions about who to serve content to" based on how "well-reputed" a peer is it would have been obvious to one of ordinary skill in the art at the time of the invention to include file access privileges for users serving data based on reputation in order to provide a larger number of documents to such "well-reputed" users in order to (as disclosed by Gupta B, Pg 1, Left Column, lines 26-31) "to provide an incentive for the

peers in a p2p system to share and serve the content download (or generate), stay online longer and hence contribute to the system in order to receive better service from it"

Regarding claim 2, Gupta A as modified discloses the property values and content access values being times and/or dates (Pg 146, Right Column, lines 42-46).

Regarding claim 4, Gupta A as modified discloses multiple sets of content items being stored, and respective content access data being maintained for one or more of the sets of content items (Pg 149, Left Column, lines 1-19 and Pg 147, Right Column, lines 46-56).

Regarding claim 5, Gupta A as modified discloses content access data for one set being changed in dependence on receipt from users of content items for that set (Pg 144, Left Column, lines 7-15 Note the objective criteria depend on a user receipt as shown in Pg 147, Right Column, lines 46-56).

Regarding claim 6, Gupta A as modified discloses content access data for one set being changed in dependence on the receipt from users of content items for another set or sets (Pg 144, Left Column, lines 7-15 Note the objective criteria depend on a user receipt as shown in Pg 147, Right Column, lines 46-56 for the content being received and past content).

Regarding claim 7, Gupta A as modified discloses the content access values being changed so as to increase the content items provided in the sub-set (Pg 144, Left Column, lines 7-15 Note that serving data inherently gains the user greater access to content in the implementation of Gupta).

Regarding claim 8, Gupta A as modified discloses the content access values being changed to give a fixed change in the content items with which the users are provided in the sub-set (Pg 144, Left Column, lines 7-15 and Pg 149, Right Column, lines 10-21 Note the implementation of Gupta is a reputation system to be combined with existing peer to peer systems which already offer different levels of access to content).

Regarding claim 9, Gupta A as modified discloses the step of receiving rating data specifying a rating given to a content item by a user, wherein the changing step comprises changing the content access value for the user from which the content item which was rated was received in dependence on the received rating data (Pg 144, Left Column, lines 7-15 and Pg 145, Right Column, lines 1-21 and Pg 145 Figure 1 Note quality is a determining factor in the reputation score and is inherently an objective metric and as such must be a user-defined criteria).

Regarding claim 10, Gupta A as modified discloses the rating is weighted according to the content access value of the rating user (Pg 149, Left Column, lines 47-50).

Regarding claim 11, Gupta A as modified discloses the changing step further comprising receiving requests for specific content items from the users, and changing the content access value for the user from which the requested content item was received (Pg 147, Right Column, lines 46-50 Note this metric is use to calculate reputation).

Regarding claim 12, Gupta A as modified discloses the changing step further comprising monitoring time or date at which a first content item is received in relation to the time or date a second content item is received (Pg 146, Right Column, lines 42-46), and changing the content access value of the user from the which first content item was received in dependence on a difference between the times and/or dates (Pg 146, Right Column, lines 42-46 Note that upon expiration, the first receipt no longer gives credit and thus the reputation score is decreased).

Regarding claim 13, Gupta A as modified discloses the changing step further comprising monitoring the time since the receipt of a content item (Pg 146, Right Column, lines 42-46), and changing the content access value of the user from which the content item was received in dependence on the monitored time (Pg 146, Right Column, lines 42-46 Note expiration is based upon a metric of time and is used to calculate reputation).

Regarding claim 14, Gupta A as modified discloses further comprising the step of permitting a user to perform manipulations of the stored content items in dependence on the user's content access level (inherent in Pg 149, Left Column, lines 47-50 as a bad reputation score would disqualify some users from carrying out operations like rating content which is inherent as shown concerning claim 9 above).

Regarding claim 15, Gupta A as modified discloses collectively performing [the method of claim 1] by at least a sub-set of peers within a peer to peer network (Pg 144, Left Column, lines 1-6 Note that a transaction between some users of a peer-to-peer network is inherently a subset of the total network).

Regarding claim 16, Gupta A as modified discloses a computer program or suite of computer programs stored on a computer module storage medium and arranged such that when executed by a computer system or a plurality of computer systems it/they cause the computer system or systems to perform the method of any of the preceding claims (Inherent in Pg 144, Left Column, lines 1-6 Note a peer-to-peer network allows participation through a controlling software suite).

Regarding claim 18, Gupta A discloses a content item provisioning system, comprising: content storage arranged in use to store content items for provision to users; (Pg 144, Left Column, lines 22-31 Note the server nature of the Peer 2 Peer network stores and serves content to be accessed by remote users)

data storage arranged in use to store, for at least one user, respective content access data usable to determine which stored content items may be provided to the users; (Pg 144, Right Column, lines 11-13 – Additionally in Gupta B Pg 2, Right Col, lines 39 - 49; Pg 4, Left Column, lines 1-7 Note both references determine breadth of search for the item in relation to reputation)

first receiving means for receiving content items from a particular user for provision to the users; (Pg 144, lines 1-3 Note content download is receipt of an item from a remote user acting as a server for the data)

a data processor arranged in use:

i) to change the respective content access data for said particular user from which content items are received; (Pg 144, Right Column, lines 11-13; 147, Right Column, lines 46-56; – Additionally in Gupta B Pg 2, Right Col, lines 39 - 49; Pg 4, Left Column, lines 1-7 Note the receipt system and reputation score change accessible content as above) and

the content access data comprising a content access value (As above, not the reputation is a reputation value for use by the system)

Note while Gupta A does disclose “determining a sub-set of the stored content items items-to said particular user,” and implies the “the sub-set of the content items being determined in dependence on the respective property values” (Col 144, Right Column, lines 13-17) a specific dependence is not necessarily disclosed regarding providing the content. Gupta also only implies, but does not specifically disclose each stored content

item having a property value" and "a content access value relating to the property value, wherein the sub-set of the content items is determined in dependence on the respective property values" within the above disclosed determination.

Because file access privileges are well known in the art (Demonstrated by the disclosure of Daly, Col 2, lines 10 - 19) and the disclosure of Gupta already discloses "decisions about who to serve content to" based on how "well-reputed" a peer is it would have been obvious to one of ordinary skill in the art at the time of the invention to include file access privileges for users serving data based on reputation in order to provide a larger number of documents to such "well-reputed" users in order to (as disclosed by Gupta B, Pg 1, Left Column, lines 26-31) "to provide an incentive for the peers in a p2p system to share and serve the content download (or generate), stay online longer and hence contribute to the system in order to receive better service from it"

Regarding claim 19, claim 19 discloses limitations similar to claim 2 above and is rejected for substantially the same reason.

Regarding claim 21, claim 21 discloses limitations similar to claim 4 above and is rejected for substantially the same reason.

Regarding claim 22, claim 22 discloses limitations similar to claim 5 above and is rejected for substantially the same reason.

Regarding claim 23, claim 23 discloses limitations similar to claim 6 above and is rejected for substantially the same reason.

Regarding claim 24, claim 24 discloses limitations similar to claim 7 above and is rejected for substantially the same reason.

Regarding claim 25, claim 25 discloses limitations similar to claim 8 above and is rejected for substantially the same reason.

Regarding claim 26, claim 26 discloses limitations similar to claim 9 above and is rejected for substantially the same reason.

Regarding claim 27, claim 27 discloses limitations similar to claim 10 above and is rejected for substantially the same reason.

Regarding claim 28, claim 28 discloses limitations similar to claim 11 above and is rejected for substantially the same reason.

Regarding claim 29, claim 29 discloses limitations similar to claim 12 above and is rejected for substantially the same reason.

Regarding claim 30, claim 30 discloses limitations similar to claim 13 above and is rejected for substantially the same reason.

Regarding claim 31, claim 31 discloses limitations similar to claim 14 above and is rejected for substantially the same reason.

Regarding claim 32, claim 32 discloses limitations similar to claim 15 above and is rejected for substantially the same reason.

Regarding claim 33, Gupta A discloses a content item provisioning method, comprising the steps: storing data defining access to content items for provision to users; (Pg 144, Left Column, lines 22-31 Note the server nature of the Peer 2 Peer network stores and serves content to be accessed by remote users)
maintaining, for at least one user, respective content access data usable to determine which stored data defining access to content items may be provided to the users; (Pg 144, Right Column, lines 11-13 – Additionally in Gupta B Pg 2, Right Col, lines 39 - 49; Pg 4, Left Column, lines 1-7 Note both references determine breadth of search for the item in relation to reputation)
receiving data defining access to content items from a particular user for provision to the

users; (Pg 144, lines 1-3 Note content download is receipt of an item from a remote user acting as a server for the data)

changing the respective content access data for said particular user from which data defining access to content items are received; (Pg 144, Right Column, lines 11-13; 147, Right Column, lines 46-56; – Additionally in Gupta B Pg 2, Right Col, lines 39 - 49; Pg 4, Left Column, lines 1-7 Note the receipt system and reputation score change accessible content as above) and

the content access data comprising a content access value (As above, not the reputation is a reputation value for use by the system)

Note while Gupta A does disclose "determining a sub-set of the stored content items items-to said particular user," and implies the "the sub-set of the content items being determined in dependence on the respective property values" (Col 144, Right Column, lines 13-17) a specific dependence is not necessarily disclosed regarding providing the content. Gupta also only implies, but does not specifically disclose each stored content item having a property value" and "a content access value relating to the property value, wherein the sub-set of the content items is determined in dependence on the respective property values" within the above disclosed determination.

Because file access privileges are well known in the art (Demonstrated by the disclosure of Daly, Col 2, lines 10 - 19) and the disclosure of Gupta already discloses "decisions about who to serve content to" based on how "well-reputed" a peer is it would

have been obvious to one of ordinary skill in the art at the time of the invention to include file access privileges for users serving data based on reputation in order to provide a larger number of documents to such "well-reputed" users in order to (as disclosed by Gupta B, Pg 1, Left Column, lines 26-31) "to provide an incentive for the peers in a p2p system to share and serve the content download (or generate), stay online longer and hence contribute to the system in order to receive better service from

Regarding claim 34, Gupta A discloses a content item provisioning system, comprising: content storage arranged in use to store data defining access to content items for provision to users; (Pg 144, Left Column, lines 22-31 Note the server nature of the Peer 2 Peer network stores and serves content to be accessed by remote users) data storage arranged in use to store, for at least one user, respective content access data usable to determine which stored data defining access to content items may be provided to the users; (Pg 144, Right Column, lines 11-13 – Additionally in Gupta B Pg 2, Right Col, lines 39 - 49; Pg 4, Left Column, lines 1-7 Note both references determine breadth of search for the item in relation to reputation)

first receiving means for receiving data defining access to content items from a particular user for provision to the users; (Pg 144, lines 1-3 Note content download is receipt of an item from a remote user acting as a server for the data)

a data processor arranged in use:

i) to change the respective content access data for said particular user from which data defining access to content items are received; (Pg 144, Right Column, lines 11-13; 147,

Right Column, lines 46-56; – Additionally in Gupta B Pg 2, Right Col, lines 39 - 49; Pg 4, Left Column, lines 1-7 Note the receipt system and reputation score change accessible content as above) and the content access data comprising a content access value (As above, not the reputation is a reputation value for use by the system)

Note while Gupta A does disclose "providing a sub-set of the stored content items items-to said particular user," and implies the "members of the sub-set being determined in dependence on the respective content access data of said particular the-user," (Col 144, Right Column, lines 13-17) a specific dependence is not necessarily disclosed regarding providing the content. Gupta also only implies, but does not specifically disclose each stored content item having a property value" and "a content access value relating to the property value, wherein the sub-set of the content items is determined in dependence on the respective property values" within the above disclosed determination.

Because file access privileges are well known in the art (Demonstrated by the disclosure of Daly, Col 2, lines 10 - 19) and the disclosure of Gupta already discloses "decisions about who to serve content to" based on how "well-reputed" a peer is it would have been obvious to one of ordinary skill in the art at the time of the invention to include file access privileges for users serving data based on reputation in order to provide a larger number of documents to such "well-reputed" users in order to (as

disclosed by Gupta B, Pg 1, Left Column, lines 26-31) "to provide an incentive for the peers in a p2p system to share and serve the content download (or generate), stay online longer and hence contribute to the system in order to receive better service from it"

2. Claims 3 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Gupta A" in view of "Gupta B" in further view of Daly et al. (US 5,748,896), hereafter Daly and in further view of Nye et al. (US 2002/0156917) hereafter Nye.

Regarding claim 3, Gupta does not specifically disclose the property values and content access values being geographical positions. Nye discloses a peer to peer network including geographical locations in order to provide fresher indexing data (Abs), and it would have been obvious to one of ordinary skill in the art at the time of the invention to include location information in order to increase efficiency and provide fresher data by including geographic information to the peer-to-peer environment of Gupta.

Regarding claim 20, claim 20 discloses limitations similar to claim 3 above and is rejected for substantially the same reason.

(10) Response to Argument

A. In Response To Appellant's Assertion Independent Claim 1 Is Patentable Under 35 U.S.C. 103(a) over Gupta A as modified by Gupta B and Daly:

1. Regarding applicant's argument that the references as cited do not disclose "(1) restricting access to any particular data item so as to be available only to more-favored users; and (2) using 'content access data' To mediate the interactions between the central processor and the individual user with whom the content access data is associated" The argument is not deemed to be persuasive as the disclosure of Gupta A as modified does indeed disclose the above limitations for the reasons below:

Firstly, while the appellant is correct in assessing that Gupta A monitors the reputation score of peers within a peer to peer network thus allowing enhanced levels of service, appellant is incorrect in assuming the level of service does not affect the data accessible to a user. Appellant dismisses "number of hops" as not affecting content available, however this is clearly not the case.

The section Page 3, Subheading "B. Award Component" of Gupta B clearly outlines that the reputation score and LoS (Level of Service) affects "the number of hops a peer's query is allowed to go in search of the content" (Pg 4, Left Col, Lines 2-3) and hops are well known in the art to be iterations of a search passed on through a peer which has already performed (or is performing) the search.

To demonstrate how the content provided to a user is affected by level of service, we will demonstrate an example of the system as described. Let us assume the basic LoS allows 2 hops: $(H) = 2$; and an enhanced LoS allows 3 hops: $(H) = 3$, now let us assume that there are 4 servers, A, B, C and D respectively 1, 2, 3, and 4 hops away from the requesting server and respectively serving content a, b, c and d. In the case of the user having the basic level of service, the subset provided to them consists of (a, b), however if the same user has an enhanced level of service, the subset provided to them becomes (a, b, c)

With this in mind, we will now examine the claimed language which does not require that access be restricted "to any particular data item so as to be available only to more-favored users" as stated by appellant in the appeal brief, but instead that "the sub-set of the content items is determined in dependence on the respective property values" as clearly set forth in the claimed language. In the above analysis of the prior art, we can easily see how the subset is determined in dependence upon the LoS and we can clearly see in Gupta B "property values" of a file in a credit / debit system affecting the LoS: Pg 3, Left Column, line 13 – Pg 3, Right Column, line 3. Clearly the "property values" of both popularity and size in MB affect the LoS and thus "the subset of content items."

In light of the above clarifications, emphasis will be added in the paragraph below to distinctly point out how the language of the instant application ***as claimed*** is read upon by the prior art by emboldening and stating language ***as claimed***.

In this way the LoS maps directly to the "content access data" as the P2P system as a whole **"stores content for provision to users"** (apparent in the introduction of Gupta B among other places)

The reputation score **"maintain[s] for at least one user, respective content access data usable to determine which stored content items may be provided to the users"** (this is as shown above as the reputation score and LoS determine how many hops and thus what content items within the system are returned)

Within the crediting systems mentioned within Gupta A and B (best illustrated within Gupta A, Sections 2.1 & 2.2 and Gupta B, Left Col, line 13 – Right Col, line 3 it is apparent that **"receiving content items from a particular user for provision to the users"** also results in **"changing the respective content access data for said particular user from which content items are received"** if the credit or debit is sufficient to change the LoS.

As shown above, the LoS is dependent upon property values of each file and the LoS affects the subset of content items provided to a user meaning that the system **"provide[s] a sub-set of the stored content items to said particular user, members of the sub-set being determined in dependence on the**

respective content access data" (reputation score or LoS) **"of said particular user"**

"wherein each stored content item has a property value," (size / popularity of the file) **"and the content access data comprises a content access value relating to the property value"** (The Reputation score and LoS relate directly to the size and popularity of the files)

"wherein the sub-set of the content items is determined in dependence on the respective property values." (as above)

Because the independent claims have language similar to that of the claimed language of claim 1 mentioned above, it is apparent that the implementation of Gupta A as modified does indeed read upon the claimed language of the instant application.

In addition to the above rejection, the disclosure of Gupta A makes obvious adding file protection to the implementation of Gupta A. Specifically, Gupta A, Pg 144, Left Column, lines 13-17 state: "Reliable peer reputations could be used in a variety of ways. They can help well-reputed peers find other peers with good reputations and hence help them in making decisions about who to serve content to and who to request content from."

In light of the above statement within Gupta A, the examiner also maintains that it would have been obvious to one of ordinary skill in the art at the time of the invention to add basic file protection to enforce the "decision about who to serve content to" such as those of Daly et al. (US 5,748,896)

For both of the above reasons, appellant's arguments are deemed not to be persuasive.

B. In Response To Appellant's Assertion dependent Claims 2 and 19 are Patentable Under 35 U.S.C. 103(a) over Gupta A as modified by Gupta B and Daly:

1. Regarding applicant's argument that the references as cited do not disclose "the property values and content access values being times and/or dates" The argument is deemed to not be persuasive for the following reason:

Independent claim 1 is absolutely silent as to what the property value consists of and how it is generated, only that each stored content items has one and that the content access value relates to it. Additionally, the "content access value" seems to be a subset of the "content access data," however the claimed language is silent as to the size of the subset.

With this in mind we will again look at Gupta A, Section 2.2 which states that "To prevent peers from once gaining a good reputation score and then never contributing to the system, CORC time-stamps the reputation scores for expiration."

The above makes it apparent that the reputation score (content access data) includes expiration information specifically being a time stamp. In this way the "content access value" is specifically the expiration time stamp. Additionally, for each file downloaded, the credit systems includes a current time stamp as made obvious by Section 2.2 of Gupta A and disclosed specifically by section 3.1. In this way, each file has the property of "time downloaded" which is dynamically generated upon access. This fully meets the requirements of being a "property value" as all content items have them and the "content access value" relates to them.

C. In Response To Appellant's Assertion dependent Claims 3 and 20 are Patentable Under 35 U.S.C. 103(a) over Gupta A as modified by Gupta B, Daly, and Nye:

1. Regarding applicant's argument that the references as cited do not disclose "the property values and content access values being geographical locations" The argument is deemed to not be persuasive for the following reason:

As shown above with respect to the points discussed within section B of this action, the "content access value" is merely a component of "component access data" and the only requirement of the property value is that each content item has one and that the "content access value" relates to it.

With this in mind we will now look at the teachings of Nye. Because each content item is associated with a server's geographic location, it is apparent that each content item has a property value - in this case being identical to the geographic data of the server which houses the data. Additionally, geographic bounding as disclosed within Nye requires "content access data" to include this geographic bounding. The examiner maintains that combination of Nye with the implementation of Gupta A as modified remains obvious for at least the reasons disclosed within Nye such as providing fresher indexing data and lower response times.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the board is identified by the examiner in the Related Appeals and Interference section of this examiner's answer.

For the reasons above, it is believed that the rejections should be sustained.

Respectfully Submitted,

Application/Control Number: 10/591,349

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Art Unit: 2166

/Bruce A Witzenburg/

Examiner, Art Unit 2166

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